

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 1009

By: Quinn

AS INTRODUCED

An Act relating to police pension; amending 11 O.S. 2011, Sections 50-111.3 and 50-114, which relate to deferred option plans and death of a member; authorizing designation of beneficiary of plan; designating certain person as beneficiary in certain circumstances; authorizing successor in interest as beneficiary in certain circumstances; and updating statutory language.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2011, Section 50-111.3, is amended to read as follows:

Section 50-111.3. A. In lieu of terminating employment and accepting a service retirement pension pursuant to Section 50-114 of this title, any member of the Oklahoma Police Pension and Retirement System who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension may make an irrevocable election to participate in the Oklahoma Police Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

1 B. For purposes of this section, creditable service shall
2 include service credit reciprocally recognized pursuant to Section
3 50-101 et seq. of this title but for eligibility purposes only.

4 C. The duration of participation in the Oklahoma Police
5 Deferred Option Plan for a member shall not exceed five (5) years.
6 Participation in the Oklahoma Police Deferred Option Plan must begin
7 the first day of a month and end on the last day of a month. At the
8 conclusion of a member's participation in the Oklahoma Police
9 Deferred Option Plan, the member shall terminate employment with all
10 participating municipalities as an officer, and shall start
11 receiving the member's accrued monthly retirement benefit from the
12 System. Such a member may receive in-service distributions of such
13 member's accrued monthly retirement benefit from the System if such
14 member is reemployed by a participating municipality only if such
15 reemployment is as a police chief or in a position not covered under
16 the System.

17 D. When a member begins participation in the Oklahoma Police
18 Deferred Option Plan, the contribution of the employee shall cease.
19 The employer contributions shall continue to be paid in accordance
20 with Section 50-109 of this title. Municipal contributions for
21 employees who elect the Oklahoma Police Deferred Option Plan shall
22 be credited equally to the Oklahoma Police Pension and Retirement
23 System and to the Oklahoma Police Deferred Option Plan. The monthly
24 retirement benefits that would have been payable had the member

1 elected to cease employment and receive a service retirement shall
2 be paid into the Oklahoma Police Deferred Option Plan account.

3 E. 1. A member who participates in this plan shall be eligible
4 to receive cost of living increases.

5 2. A member who participates in this plan shall earn interest
6 at a rate of two percentage points below the rate of return of the
7 investment portfolio of the System, but no less than the actuarial
8 assumed interest rate as certified by the actuary in the yearly
9 evaluation report of the actuary. The interest shall be credited to
10 the individual account balance of the member on an annual basis.

11 F. A participant in the Oklahoma Police Deferred Option Plan
12 shall receive, at the option of the participant:

13 1. A lump sum payment from the account equal to the option
14 account balance of the participant, payable to the participant;

15 2. A lump sum payment from the account equal to the option
16 account balance of the participant, payable to the annuity provider
17 which shall be selected by the participant as a result of the
18 research and investigation of the participant; or

19 3. Any other method of payment if approved by the State Board.

20 Notwithstanding any other provision contained herein to the
21 contrary, commencement of distributions under the Oklahoma Police
22 Deferred Option Plan shall be no later than the time as set forth in
23 subsection C of Section 50-114 of this title.

1 G. If the participant dies during the period of participation
2 in the Oklahoma Police Deferred Option Plan, a lump sum payment
3 equal to the account balance of the participant shall be paid ~~in~~
4 accordance with Section 50-115.2 of this title to the recipients
5 designated in writing by the participant or, if none, to the
6 surviving spouse who was married to the participant for thirty (30)
7 continuous months immediately preceding the death of the
8 participant. Provided, a surviving spouse of a participant who died
9 while in and as a consequence of the performance of the
10 participant's duty for a participating municipality shall not be
11 subject to the thirty-month marriage requirement for survivor
12 benefits. If there is no surviving spouse, payment shall be made to
13 the estate of the participant.

14 H. In lieu of participating in the Oklahoma Police Deferred
15 Option Plan pursuant to subsections A, B, C, D, E and F of this
16 section, a member may make an irrevocable election to participate in
17 the Oklahoma Police Deferred Option Plan pursuant to this subsection
18 as follows:

19 1. For purposes of this subsection, the following definitions
20 shall apply:

- 21 a. "back drop date" means the date selected by the
22 member, which is up to five (5) years before the
23 member elects to participate in the Oklahoma Police
24 Deferred Option Plan, but not before the date at which

1 the member completes twenty (20) years of credited
2 service,

3 b. "termination date" means the date the member elects to
4 participate in the Oklahoma Police Deferred Option
5 Plan pursuant to this subsection, and the date the
6 member terminates employment with all participating
7 municipalities as an active police officer, such
8 termination has at all times included reemployment of
9 a member by a participating municipality only if such
10 reemployment is as a police chief or in a position not
11 covered under the System,

12 c. "earlier attained credited service" means the credited
13 service earned by a member as of the back drop date,
14 and earlier attained credited service cannot be
15 reduced to less than twenty (20) years of credited
16 service, and

17 d. "deferred benefit balance" means all monthly
18 retirement benefits that would have been payable had
19 the member elected to cease employment on the back
20 drop date and receive a service retirement from the
21 back drop date to the termination date, all of the
22 member's contributions and one-half (1/2) of the
23 employer contributions from the back drop date to the
24 termination date, with interest based on how the
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1 benefit would have accumulated as if the member had
2 participated in the Oklahoma Police Deferred Option
3 Plan pursuant to subsections A, B, C, D and E of this
4 section from the back drop date to the termination
5 date;

6 2. At the termination date, the monthly pension benefit shall
7 be determined based on earlier attained credited service and on the
8 final average salary as of the back drop date. The member's
9 individual deferred option account shall be credited with an amount
10 equal to the deferred benefit balance; the member shall terminate
11 employment with all participating municipalities as a police officer
12 and shall start receiving the member's accrued monthly retirement
13 benefit from the System. The provisions of subsections B, C, E, F
14 and G of this section shall apply to this subsection. A member
15 shall not participate in the Oklahoma Police Deferred Option Plan
16 pursuant to this subsection if the member has elected to participate
17 in the Oklahoma Police Deferred Option Plan pursuant to subsections
18 A, B, C, D, E and F of this section; and

19 3. If a member who has not less than twenty (20) years of
20 creditable service and who is eligible to receive a service
21 retirement pension dies prior to terminating employment, the
22 surviving spouse shall be eligible to elect to receive a benefit
23 determined as if the member had elected to participate in the
24 Oklahoma Police Deferred Option Plan in accordance with this

1 subsection on the day immediately preceding the death. The
2 surviving spouse must have been married to the member for the thirty
3 (30) continuous months preceding the member's death; provided, the
4 surviving spouse of a member who died while in, and as a consequence
5 of, the performance of the member's duty for a participating
6 municipality shall not be subject to the thirty-month marriage
7 requirement for this election.

8 SECTION 2. AMENDATORY 11 O.S. 2011, Section 50-114, is
9 amended to read as follows:

10 Section 50-114. A. The State Board is hereby authorized to pay
11 out of funds in the System a monthly service pension to any member
12 eligible as hereinafter provided, not exceeding in any event the
13 amount of money in such funds and not exceeding in any event the
14 accrued retirement benefit for such member, except as provided for
15 herein. In order for a member to be eligible for such service
16 pension the following requirements must be complied with:

17 1. The member's service with the police department for any
18 participating municipality must have ceased; however, a member may
19 be subsequently reemployed in the position of police chief pursuant
20 to subsection C of Section 50-112 of this title;

21 2. The member must have reached the member's normal retirement
22 date; and

23 3. The member must have complied with any agreement as to
24 contributions by the member and other members to any funds of the
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1 System where ~~said~~ the agreement has been made as provided by this
2 article; provided, that should a retired member receive disability
3 benefits as provided in this and other sections of this article, the
4 time the retired member is receiving ~~said~~ the disability benefits
5 shall count as time on active service if the retired member should
6 be recalled by the Chief of Police from ~~said~~ the disability
7 retirement. It shall be necessary before ~~said~~ the time shall be
8 counted toward retirement that the retired member make the same
9 contribution as the member would have otherwise made if on active
10 service for the time the retired member was disabled.

11 B. Any member complying with all requirements of this article,
12 who reaches normal retirement date, upon application, shall be
13 retired at the accrued retirement benefit. When a member has served
14 for the necessary number of years and is otherwise eligible, as
15 provided in this article, if such member is discharged without cause
16 by the participating municipality, the member shall be eligible for
17 a pension.

18 C. Effective July 1, 1989, in no event shall commencement of
19 distribution of the accrued retirement benefit of a member be
20 delayed beyond April 1 of the calendar year following the later of:

- 21 1. The calendar year in which the member reaches seventy and
22 one-half (70 1/2) years of age; or
 - 23 2. The actual retirement date of the member.
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1 For distributions made for calendar years beginning on or after
2 January 1, 2001 through December 31, 2004, the System shall apply
3 the minimum distribution requirements and incidental benefit
4 requirements of Section 401(a)(9) of the Internal Revenue Code of
5 1986, as amended, in accordance with the regulations under Section
6 401(a)(9) of the Internal Revenue Code of 1986, as amended, which
7 were proposed on January 17, 2001, notwithstanding any provision of
8 the System to the contrary. For distributions made for calendar
9 years beginning on or after January 1, 2005, the System shall apply
10 the minimum distribution incidental benefit requirements, incidental
11 benefit requirements, and minimum distribution requirements of
12 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
13 in accordance with the final regulations under Section 401(a)(9) of
14 the Internal Revenue Code of 1986, as amended, which were issued in
15 April 2002 and June 2004, notwithstanding any provision of the
16 System to the contrary. Effective January 1, 2009, with respect to
17 the Oklahoma Police Deferred Option Plan, to the extent applicable,
18 no minimum distribution is required for 2009 in accordance with
19 Section 401(a)(9)(H) of the Internal Revenue Code of 1986, as
20 amended.

21 Effective September 8, 2009, notwithstanding anything to the
22 contrary of the System, the System, which is a governmental plan
23 (within the meaning of Section 414(d) of the Internal Revenue Code
24 of 1986, as amended) is treated as having complied with Section

1 401(a) (9) of the Internal Revenue Code of 1986, as amended, for all
2 years to which Section 401(a) (9) of the Internal Revenue Code of
3 1986, as amended, applies to the System if the System complies with
4 a reasonable and good faith interpretation of Section 401(a) (9) of
5 the Internal Revenue Code of 1986, as amended.

6 D. In the event of the death of any member who has been awarded
7 a retirement benefit or is eligible therefor as provided in this
8 section, such member's beneficiaries shall be paid such retirement
9 benefit. The remaining portion of the member's retirement benefit
10 shall be distributed to the beneficiaries at least as rapidly as
11 under the method of distribution to the member. Effective March 1,
12 1997, if a member to whom a retirement benefit has been awarded or
13 who is eligible therefor dies prior to the date as of which the
14 total amount of retirement benefit paid equals the total amount of
15 the employee contributions paid by or on behalf of the member and
16 the member does not have a surviving beneficiary, the total benefits
17 paid as of the date of the member's death shall be subtracted from
18 the accumulated employee contribution amount and the balance, if
19 greater than zero (0), shall be paid to the member's estate.

20 E. The State Board may review and affirm a member's request for
21 retirement benefits prior to the member's normal retirement date
22 provided that no retirement benefits are paid prior to the normal
23 retirement date.

1 F. A member retired under the provisions of this article may
2 apply to the State Board to have the member's retirement benefits
3 set aside and may make application for disability benefits. Upon
4 approval of the disability benefits, the member would become subject
5 to all provisions of this article pertaining to disability
6 retirement.

7 G. Upon the death of a retired member or a beneficiary, the
8 benefit payment for the month in which the retired member or
9 beneficiary died, if not previously paid, shall be made to the
10 beneficiary of the member, which shall include a successor in
11 interest for whom an affidavit is provided to the System in
12 accordance with Section 393 of Title 58 of the Oklahoma Statutes, or
13 to the member's or beneficiary's estate if there is no beneficiary.
14 Such benefit payment shall be made in an amount equal to a full
15 monthly benefit payment regardless of the day of the month in which
16 the retired member or beneficiary died.

17 H. If the requirements of Section 50-114.4 of this title are
18 satisfied, a member who, by reason of attainment of normal
19 retirement date or age, is separated from service as a public safety
20 officer with the member's participating municipality, may elect to
21 have payment made directly to the provider for qualified health
22 insurance premiums by deduction from his or her monthly pension
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1 payment, after December 31, 2006, in accordance with Section 402(1)
2 of the Internal Revenue Code of 1986, as amended.
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